

Remarks

Claims 1-6 have been rejected under 35 USC 102(e) as being anticipated by U.S. published patent application no. 2004/0131039 (“Benveniste”).

Claims 7-26 have been rejected under 35 USC 103(a) as being unpatentable over U.S. published patent application no. 2004/0131075 (“Sinnarajah”) in view of Benveniste.

Applicants respectfully traverse this rejection because the cited references do not disclose or suggest every element of any pending claim, as the following analysis shows.

Claims 1-6, 18-20, and 24-26 have been cancelled, rendering any rejection to these claims moot.

Independent claims 7, 15, and 21 each recite organizing multiple devices into a group having similar predicted durations for data transmission. Claims 15 and 21 also recite doing this for a second group of multiple devices. Neither Benveniste nor Sinnarajah teaches organizing devices into groups having similar predicted durations for data transmission. Sinnarajah only teaches organizing devices into groups, but the rejection admits that he does not do this based on the predicted durations of transmissions from these devices. The rejection further states that Benveniste identifies the expected duration of transmissions for individual devices. But there is no indication that Benveniste groups devices together based on this expected duration of transmissions, and the rejection does not state that he does. The rejection then tries to fill in this missing

limitation by stating that there is a presumed benefit to be derived by such grouping (reduces the delay in queued data), but does not identify any portion of either reference that teaches, discusses, or even implies this benefit. Nor does the rejection give any reason why this limitation would be obvious, other than that it might be beneficial.

A presumed benefit, without more, is not sufficient to show obviousness, and requires impermissible hindsight to reach such a conclusion. If the mere existence of a benefit were sufficient to deny patentability, few patents would ever be issued, as every invention produces some sort of presumed benefit (who would spend to money to obtain a patent on something that had no conceivable benefit?).

The remaining pending claims each depends, directly or indirectly, from one of independent claims 7, 15, or 21, and therefore contains the same limitations not disclosed or suggested by the cited references.

Conclusion

For the foregoing reasons, it is submitted that the application is in condition for allowance, and indication of allowance by the Examiner is respectfully requested. If the Examiner has any questions concerning this application, he or she is requested to telephone the undersigned at the telephone number shown below as soon as possible. If any fee insufficiency or overpayment is found, please charge any insufficiency or credit any overpayment to Deposit Account No. 50-0221.

Respectfully submitted,

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